

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SYLVIA G. ASH,

Defendant.

Case No. 1:19-cr-00780-LAK

**DECLARATION OF CARRIE H. COHEN IN SUPPORT OF
DEFENDANT SYLVIA G. ASH'S MOTIONS TO SUPPRESS**

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**NITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA,

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SYLVIA G. ASH,

Defendant.

Case No. 1:19-cr-00780-LAK

I, Carrie H. Cohen, declare as follows:

1. This declaration is based on my personal knowledge and knowledge of discovery produced in this case.
2. I am a partner at the law firm of Morrison & Foerster LLP, counsel for defendant Sylvia G. Ash and submit this Declaration in support of the Memorandum of Law in Support of Defendant Sylvia G. Ash's Motions to Suppress.
3. On February 20, 2020, I requested that the United States Attorney's Office for the Southern District of New York ("USAO") provide all correspondence between the Municipal Credit Union (the "MCU") and the government that in any way relates to the MCU's request that Ms. Ash provide to it any electronic devices in her possession of which the MCU claimed ownership, including an iPhone X (the "iPhone"). Attached as **Exhibit A** is a true and correct copy of this correspondence.
4. The USAO responded that the government did not believe that Ms. Ash is entitled to any such correspondence but produced certain chain of custody records that should have been but

were not provided in the regular course of the government's discovery disclosures. Attached as **Exhibit B** is a true and correct copy of this correspondence.

5. On March 11, 2020, I again requested discovery of any communications or correspondence between the MCU and the government that in any way relates to the MCU's request that Ms. Ash provide to it any electronic devices in her possession of which the MCU claimed ownership, including the iPhone. This letter stated that it was clear from the limited disclosures to date from the government that the MCU and the government were in contact related to this request. The letter further asked the USAO to confirm that the government either declines to provide the requested information or that no such communications existed or occurred. Attached as **Exhibit C** is a true and correct copy of this correspondence.

6. The USAO responded to the March 11, 2020 letter that it would not provide the requested communications but did not deny that such communications existed or occurred. Attached as **Exhibit D** is a true and correct copy of this correspondence.

7. I made a similar request for communications between the government and the MCU to outside counsel for the MCU who, the USAO informed me, had informed the USAO of the request, and has to date not provided it.

8. I have reviewed documents produced in this case that demonstrate that the telephone and other cellular services associated with the iPhone account were paid for by Ms. Ash and that the account on the iPhone was set up as her personal cellular account.

9. Based on my knowledge of discovery in this case, I know that Ms. Ash's iPhone 6S was seized from her at the time of her arrest and then searched pursuant to a search warrant.

10. Attached as **Exhibit E** is a true and correct copy of Special Agent LaVale Jackson's Affidavit in Support of Application for Search Warrants for Stored Electronic Communications, with Bates numbers SDNY_00000441-488.

11. Attached as **Exhibit F** is a true and correct copy of the Search Warrant and Non-Disclosure Order issued on March 18, 2019 for all content and other information associated with the email account h[REDACTED]@gmail.com, directed to Google LLC, with Bates numbers SDNY_00000495-499.

12. Attached as **Exhibit G** is a true and correct copy of a document titled "CONSENT TO SEARCH – DEVICES" signed by Stella Mendes on October 30, 2018, with Bates numbers SDNY_00032682-00032684.

13. Attached as **Exhibit H** is a true and correct copy of the Search Warrant and Non-Disclosure Order issued on March 18, 2019 for all content and other information associated with the email account s[REDACTED]@aol.com, directed to Oath, Inc., with Bates numbers SDNY_00000500-504.

14. Attached as **Exhibit I** is a true and correct copy of a New York City District Attorney laboratory intake log showing the intake date of the iPhone, which was assigned the IMEI 359411085759641, with Bates number SDNY_00032690.

15. Attached as **Exhibit K** is a true and correct copy of the March 1, 2018 Interview Memorandum of Ms. Ash prepared by Special Agent LaVale Jackson, with Bates numbers SDNY_00000001-3.

16. Attached as **Exhibit L** is a true and correct copy of the June 8, 2018 Interview Memorandum of Ms. Ash prepared by Special Agent LaVale Jackson, with Bates number SDNY_00000004.

17. Attached as **Exhibit M** is true and correct copy of an excerpt of a May 8, 2018 Search Warrant Inventory, with Bates number SDNY_00004941.

18. Attached as **Exhibit N** is a true and correct copy of an excerpt of a May 23, 2018 Search Warrant Inventory, with Bates numbers SDNY_00004912-4913.

19. Attached as **Exhibit O** is a true and correct copy of a June 19, 2018 letter from the MCU to Ms. Ash demanding that Ms. Ash provide her electronic devices to it, with Bates number SDNY_000000042.

20. Attached as **Exhibit P** is a true and correct copy of the Compliant, dated October 4, 2019.

21. Attached as **Exhibit Q** is a true and correct copy of a document entitled “Reset Device Chain of Custody – DRAFT,” with Bate numbers SDNY_00032680-32681.

22. Attached as **Exhibit R** is a true and correct copy of a July 13, 2018 letter from the MCU to Ms. Ash demanding that Ms. Ash provide her electronic devices to it, with Bates number MCU-00018053.

23. Attached as **Exhibit S** is a true and correct copy of a New York State Department of Financial Services press release announcing that it had taken possession of the MCU.

24. Attached as **Exhibit T** is a true and correct copy of enamel correspondence from AUSA Daniel Richenthal advising me that the MCU does not have a non-prosecution or other agreement with the government.

25. Attached as **Exhibit U** is a true and correct copy of email correspondence between [m](#) [REDACTED] and [sy](#) [REDACTED], with Bates numbers SDNY_0000037-38.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20th day of March 2020, in New York, New York

s/ Carrie H. Cohen
Carrie H. Cohen